THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 6399 of 2006

O r d e r:

The petitioner is working as Driver with the respondent-APSRTC. On the ground that the petitioner has signed as a witness on the complaint lodged by one Sri. P. Sammaiah, Driver, against Sri. P. Gopal Rao, DM/WL-2, before the Police, Hanumakonda Police Station, alleging that he had abused him in the name of his caste on 18.08.2005, the respondent vide proceedings dated 21.11.2005, placed him under suspension, and charged him for indiscipline and serious misconduct under Regulation 28(xxvi) and (xxxi) of APSRTC (Conduct) Regulations, 1963 (for short 'the Regulations'). To quash the charge sheet, and to consequently direct the respondent to reinstate him into service, the petitioner filed the writ petition.

The learned counsel for the petitioner submitted that Sri. P. Gopal Rao, DM/WL-2 had abused Sri. P. Sammaiah, Driver, in the name of his caste in the presence of the petitioner, and therefore, the petitioner had put his signature as a witness on the complaint lodged by Sri. P. Sammaiah, Driver against Sri. P. Gopal Rao, before the Police, Hanumakonda Police Station, and merely because the petitioner had put his signature on the complaint, it cannot be said that the petitioner had committed an act, constituting misconduct under Regulation 28(xxvi) and (xxxi) of the Regulations. He submits that "any other act" referred to in Regulation 28(xxvi) and (xxxi) of the Regulations, should be read only with reference to the performance of duties in APSRTC and not otherwise. He submitted that the respondent by placing the petitioner under suspension and issuing charge-sheet, are attempting to subvert the judicial process. He thus, prayed that the impugned charge sheet be set aside and the petitioner be directed to be reinstated into service.

The learned Standing Counsel for the respondent-APSRTC submitted that Sri. P. Sammaiah, Driver, had fabricated a complaint against Sri. P. Gopal Rao, DM/WL-2 stating that he had abused him in the name of his caste, and lodged the fabricated complaint before the Police, Hanumakonda Police Station, on which, the petitioner appended his signature as if he was a witness to the happening. Pursuant to the complaint, a preliminary enquiry was conducted,

wherein it was revealed that the complaint lodged by Sri. P. Sammaiah, Driver, was a fabricated one, and inasmuch as the act of the petitioner in signing on the fabricated complaint, amounted to making a false allegation against a member of the Corporation, the respondent issued the impugned charge sheet and placed him under suspension, pending enquiry into the charge, and no exception can be taken thereto.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-APSRTC.

Though the petitioner contends that the incident did take place in his presence, and therefore, he had appended his signature on the complaint, the charge-sheet issued to the petitioner discloses that in the preliminary enquiry conducted into the incident, it was revealed that the petitioner was not present, and though, he was not present at the time of the incident, he had signed on the complaint fabricated and lodged by one

P. Sammaiah, Driver against Sri. P. Gopal Rao, DM/WL-2, before the Police, Hanumakonda Police Station, as if he was a witness to the incident. As the act of the petitioner in signing on the fabricated complaint, as a witness, amounted to making an allegation against a member of the Corporation, knowing it to be false, constituted a misconduct under Regulation 28(xxvi) and (xxxi) of the Regulations, the respondent issued the impugned charge sheet and placed him under suspension, pending enquiry into the charge. Though the petitioner contends that “any other act” referred to in Regulation 28(xxxi) of the Regulations, should be read only with reference to performance of duties in the Corporation, the fact remains, the alleged incident, is said to have taken place at the work place, namely within the premises of the Depot. Inasmuch as the incident is alleged to have taken place within the premises of the work place, certainly Regulation 28(xxxi) of the Regulations gets attracted. Since the alleged incident is said to have taken place at the work place, certainly the respondent is entitled to enquire and take appropriate disciplinary action against those involved in the incident. At any rate, the questions whether the petitioner has signed on a fabricated complaint or a genuine complaint, or whether the incident took place at the work place or outside the work place, are matters of enquiry. Therefore, neither the charge sheet can be quashed nor the petitioner can be directed to be reinstated into service by lifting the order of suspension, and more so when suspension pending enquiry, is not a punishment, but is made only to facilitate a fair and impartial enquiry.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 4th April, 2006.
KSR

Note:

Issue CC in two days.
(B/o)
KSR